

AMENDED IN ASSEMBLY SEPTEMBER 2, 1997

AMENDED IN ASSEMBLY JULY 10, 1997

AMENDED IN ASSEMBLY JULY 1, 1997

AMENDED IN SENATE MAY 14, 1997

SENATE BILL

No. 1348

**Introduced by Committee on Business and Professions
(Senators Polanco (Chair), Ayala, Craven, Greene,
Johannessen, Kelley, O'Connell, and Rosenthal)**

March 18, 1997

An act to amend Sections 5053, 5055, 5056, 5060, 5070.6, 5071, 5072, 5073, 5081.1, 5084, 5153, 11302, 11315, 11360, 11410, 17550.43, 17550.44, 17550.47, ~~and 17550.49~~ 17550.49, and 22958 of, to add Sections 5058.1, 11316, 11317, 11318, and 11409 to, to repeal Sections 5059, 5074, 5075, and 5076 of, and to repeal and add Section 5082.3 of, the Business and Professions Code, and to amend Section 719 of the Harbors and Navigation Code, relating to professions.

LEGISLATIVE COUNSEL'S DIGEST

SB 1348, as amended, Committee on Business and Professions. Professions: accountancy: sellers of travel: real estate appraisers: yacht brokers.

(1) Existing law requires that any person who has received from the State Board of Accountancy a certificate of certified public accountant or a certificate of public accountant and holds a valid permit to practice be styled and known as a "certified public accountant" or "public accountant,"

respectively. Existing law prohibits any other person, except a partnership of registered certified public accountants or a partnership of public accountants to assume or use that title, designation, or abbreviation or any other title, designation, sign, card, or device tending to indicate that the person using it is a certified public accountant or public accountant, respectively.

This bill would except a registered accountancy corporation from the above prohibition. The bill would also prohibit a person or firm from using any title or designation in connection with the designation “certified public accountant” or “public accountant” that is false or misleading or that is likely to lead to public confusion concerning either the source of the title or designation or the training, education, or experience required to earn, obtain, or use the title or designation. The bill would also make various revisions regarding the use of names in an accountancy firm or accountancy corporation and registration requirements for accountancy partnerships.

Violation of certain provisions relating to accountancy constitute a crime. Because the above provisions pertaining to the designation “certified public accountant” or “public accountant” would create a new crime, this bill would impose a state-mandated local program.

(2) Existing law provides that an expired permit to practice public accountancy may be renewed at any time within 5 years after its expiration on filing of an application for renewal on a form prescribed by the State Board of Accountancy, payment of all accrued and unpaid renewal fees, and giving evidence to the board of compliance with the continuing education provisions. Existing law further provides that if the permit is renewed more than 30 days after its expiration, its holder, as a condition precedent to renewal, shall also pay a prescribed delinquency fee.

This bill would delete the 30-day grace period for renewal of a permit.

(3) Under existing law, an applicant for admission to the examination for a certified public accountant certificate is required to comply with various requirements, including presenting satisfactory evidence that he or she has a



baccalaureate degree from a university, college, or other 4-year institution of learning accredited as specified.

This bill would provide that such an applicant may also present satisfactory evidence of a degree or degrees from a college, university, or other institution of learning located outside the United States that is approved by the board as the equivalent of the aforementioned baccalaureate degree.

(4) Existing law provides that a Canadian Chartered Accountant in good standing shall be deemed to have met the examination requirements for a license as a certified public accountant in this state, as specified.

This bill would repeal this provision and instead provide that an applicant for a license may be deemed by the board to have met the examination requirements if the applicant is licensed or has comparable authority under the laws of any country to engage in the practice of public accountancy, as specified, and has passed the International Uniform Certified Public Accountant Examination.

(5) The Real Estate Appraisers' Licensing and Certification Law authorizes the Director of the Office of Real Estate Appraisers to issue to a licensee, applicant for licensure, or person who acts in a capacity that requires a license under the act a citation that may contain an order to pay an administrative fine assessed by the office if the appraiser is in violation of this law or any regulations adopted to carry out its purposes.

This bill would authorize the director to issue a citation that may contain an administrative fine assessment to a course provider, as defined, applicant for course provider accreditation, or a person who, or entity that, acts in a capacity that requires course provider accreditation for violation of this law or any regulations adopted to carry out its purposes. The bill would provide that, if appropriate, the citation may contain an order to enroll in, and successfully complete, additional basic or continuing education courses, as specified, and would revise provisions relating to the payment of fines assessed by the director.

This bill would also authorize the director to assess a fine against a licensee, applicant for licensure, person who acts in a capacity that requires a license under the law, course

provider, applicant for course provider accreditation, or a person who, or entity that, acts in a capacity that requires course provider accreditation for violation of the law or any regulations adopted to carry out its purposes. The bill, in addition, would require a licensee, applicant for licensure, course provider, or applicant for course provider accreditation to report to the office, in writing, the occurrence of certain events relating to any criminal convictions of a licensee, applicant for licensure, course provider, or applicant for course provider accreditation, or any disciplinary proceedings against a licensee or course provider, in accordance with prescribed procedures.

(6) Existing law requires the Office of Real Estate Appraisers to include in its regulations requirements for licensure and discipline of real estate appraisers that ensure protection of the public interest.

This bill would require the office to publish a summary of public disciplinary actions taken by the office, including resignations while under investigation and the violations upon which these actions are based.

(7) Existing law does not provide for the recovery of costs for investigation, enforcement, and prosecution by the Office of Real Estate Appraisers.

This bill would authorize any order issued in resolution of a disciplinary proceeding to direct a licensee, applicant for licensure, person who acts in a capacity that requires a license under the Real Estate Appraisers' Licensing and Certification Law, course provider, applicant for course provider accreditation, or a person who, or entity that, acts in a capacity that requires course provider accreditation found to have committed a violation or violations of statutes or regulations relating to the standards of professional appraiser practice to pay these costs.

(8) The Real Estate Appraisers' Licensing and Certification Law establishes the Real Estate Appraisers Regulation Fund in the State Treasury consisting of moneys raised by fees and assessments imposed pursuant to the act, and requires that interest be paid on all money transferred to the General Fund from the Real Estate Appraisers Regulation Fund, notwithstanding certain provisions.



This bill would require that the interest on this money be paid at the pooled money investment rate.

(9) Existing law provides that any person aggrieved, as defined, who suffers a loss may file a claim with the Travel Consumer Restitution Corporation, in accordance with specified procedures, provides that a claimant may request reconsideration of, and appeal, an adverse decision by the corporation, and entitles the claimant to receive attorney's fees and costs if he or she prevails on appeal. Existing law also requires the corporation to establish an operations fund for the payment of costs of operations and administration and requires all participants registering or applying for registration to pay to the corporation a one-time assessment of \$25 per location from which the participant does business in the state in order to provide additional funding for the operations of the corporation.

This bill would authorize a seller of travel to request reconsideration of, and appeal, an adverse decision of the corporation ~~and would entitle a seller of travel that prevailed on an appeal to attorney's fees and costs.~~ It would also increase the above assessment fee from \$25 to \$35, and *would allow the corporation to seek recovery from a seller of travel of amounts paid from the fund, interest, and associated collection expenses.* The bill would make other related changes.

(10) *Existing law, the Stop Tobacco Access to Kids Enforcement (STAKE) Act, authorizes the State Department of Health Services to assess civil penalties against any person, firm, or corporation that sells tobacco products or other controlled substances to persons who are under 18 years of age.*

This bill would also provide for civil penalties to be assessed by the department against any person, firm, or corporation that advertises, or causes to be advertised, tobacco products on any outdoor billboard within 1,000 feet of any public or private school or public playground.

(11) The Yacht and Ship Brokers Act provides for the licensing of yacht and ship brokers by the Department of Boating and Waterways and establishes the qualifications necessary for a person to apply for a broker's license.



This bill would additionally provide that a person who has owned and operated a marine business selling new or used yachts for a minimum of 3 continuous years is qualified to submit an application for a broker's license.

(H)

(12) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5053 of the Business and
2 Professions Code is amended to read:

3 5053. Nothing contained in this chapter precludes a
4 person who is not a certified public accountant or public
5 accountant from serving as an employee of, or an assistant
6 to, a certified public accountant or public accountant or
7 partnership or a corporation composed of certified public
8 accountants or public accountants holding a permit to
9 practice pursuant to this chapter if the employee or
10 assistant works under the control and supervision of a
11 certified public accountant, or a public accountant
12 authorized to practice public accountancy pursuant to
13 this chapter and if the employee or assistant does not issue
14 any statement over his or her name.

15 This section does not apply to an attorney at law in
16 connection with his or her practice of law.

17 SEC. 2. Section 5055 of the Business and Professions
18 Code is amended to read:

19 5055. Any person who has received from the board a
20 certificate of certified public accountant and holds a valid
21 permit to practice under this chapter shall be styled and
22 known as a "certified public accountant" and may also use
23 the abbreviation "C.P.A." No other person, except a
24 partnership of certified public accountants registered

1 under Sections 5072 and 5073, or an accountancy
2 corporation registered under Section 5150, shall assume
3 or use that title, designation, or abbreviation or any other
4 title, designation, sign, card, or device tending to indicate
5 that the person using it is a certified public accountant.

6 SEC. 3. Section 5056 of the Business and Professions
7 Code is amended to read:

8 5056. Any person who has received from the board a
9 certificate of public accountant and holds a valid permit
10 to practice under this chapter shall be styled and known
11 as a “public accountant” and may also use the
12 abbreviation “P.A.” No other person, except a
13 partnership of public accountants registered under
14 Sections 5072 and 5073, or an accountancy corporation
15 registered under Section 5150, shall assume or use that
16 title, designation, or abbreviation or any other title,
17 designation, sign, card, or device tending to indicate that
18 the person using it is a public accountant.

19 SEC. 4. Section 5058.1 is added to the Business and
20 Professions Code, to read:

21 5058.1. (a) A person or firm may not use any title or
22 designation in connection with the designation “certified
23 public accountant” or “public accountant” that is either
24 of the following:

25 (1) False or misleading.

26 (2) Likely to lead to public confusion concerning
27 either of the following:

28 (A) The source of the title or designation, such as a
29 governmental agency, educational institution, or private
30 organization.

31 (B) The training, education, or experience required to
32 earn, obtain, or use the title or designation.

33 (b) The board may adopt regulations covering the use
34 of name styles, titles, or designations including, but not
35 limited to, those related to specialized training,
36 qualifications, or areas of specialized practice.

37 SEC. 5. Section 5059 of the Business and Professions
38 Code is repealed.

39 SEC. 6. Section 5060 of the Business and Professions
40 Code is amended to read:

1 5060. (a) The name or names under which a firm
2 may render professional services shall contain, and may
3 be restricted to, the name, last name, or initials of one or
4 more partners, shareholders, or owners of the firm who
5 are either licensed to practice under this chapter,
6 applicants for licensure under Sections 5087 and 5088, or
7 licensed to practice in another state or foreign country
8 where the firm is engaged in the practice of public
9 accountancy or its functional equivalent, if the firm name
10 does not include the name of any person whose license to
11 practice public accountancy is revoked by the board.

12 (b) Notwithstanding subdivision (a), the name of a
13 partnership or accountancy corporation may continue to
14 include, or may be limited to, the name, last name, or
15 initials of one or more former partners, shareholders, or
16 owners of the firm or a predecessor firm, if the firm name
17 does not include the name of any person whose license to
18 practice public accountancy is revoked by the board.

19 (c) Nothing in this chapter shall prohibit the right to
20 the continuous use of a firm name registered with the
21 board on or before December 31, 1997.

22 SEC. 7. Section 5070.6 of the Business and Professions
23 Code is amended to read:

24 5070.6. Except as otherwise provided in this chapter,
25 an expired permit may be renewed at any time within
26 five years after its expiration on filing of application for
27 renewal on a form prescribed by the board, payment of
28 all accrued and unpaid renewal fees and on and after
29 December 31, 1974, giving evidence to the board of
30 compliance with the continuing education provisions of
31 this chapter. If the permit is renewed after its expiration,
32 its holder, as a condition precedent to renewal, shall also
33 pay the delinquency fee prescribed by this chapter.
34 Renewal under this section shall be effective on the date
35 on which the application is filed, on the date on which the
36 accrued renewal fees are paid, or on the date on which
37 the delinquency fee, if any, is paid, whichever last occurs.
38 If so renewed, the permit shall continue in effect through
39 the date provided in Section 5070.5 that next occurs after

1 the effective date of the renewal, when it shall expire if
2 it is not again renewed.

3 SEC. 8. Section 5071 of the Business and Professions
4 Code is amended to read:

5 5071. No persons shall engage in the practice of
6 accountancy as a partnership unless the partnership is
7 registered by the board under Sections 5072 and 5073.

8 SEC. 9. Section 5072 of the Business and Professions
9 Code is amended to read:

10 5072. A partnership of certified public accountants or
11 public accountants, other than a limited partnership, may
12 be registered by the board provided it meets the
13 following requirements:

14 (a) At least one general partner shall be a certified
15 public accountant or public accountant of this state in
16 good standing or shall have applied for a certificate as a
17 certified public accountant under Sections 5087 and 5088.

18 (b) Each partner personally engaged within this state
19 in the practice of public accountancy shall be a licensee
20 in good standing of this state or shall have applied for a
21 certificate as a certified public accountant under Sections
22 5087 and 5088.

23 (c) Each partner not personally engaged within this
24 state shall be a certified public accountant in good
25 standing of some state.

26 (d) Each resident manager in charge of an office of the
27 firm in this state shall be a licensee in good standing of this
28 state, or shall have applied for a certificate as a certified
29 public accountant under Sections 5087 and 5088.

30 SEC. 10. Section 5073 of the Business and Professions
31 Code is amended to read:

32 5073. Application for registration of a partnership
33 shall be made upon the affidavit of a general partner of
34 the partnership who holds a valid permit in this state to
35 practice as a certified public accountant or public
36 accountant, or shall have applied for a certificate as a
37 certified public accountant under Sections 5087 and 5088.
38 The affidavit shall set forth any information that may be
39 prescribed by the rules of the board. The board shall in
40 each case determine whether the applicant is eligible for

1 registration. A partnership that is so registered and that
2 holds a valid permit issued under this article and that has
3 at least one general partner who is licensed to practice
4 using the designation “certified public accountant” or
5 abbreviation “C.P.A.” may use the words “certified
6 public accountants” or the abbreviation “C.P.A.s” in
7 connection with its partnership name. Notification shall
8 be given to the board within one month after the
9 admission to, or withdrawal of, a partner from any
10 partnership so registered.

11 Any registration of a partnership under this section
12 granted in reliance upon Sections 5087 and 5088 shall
13 terminate forthwith if the board rejects the application
14 under Sections 5087 and 5088 of the general partner who
15 signed the application for registration as a partnership, or
16 any partner personally engaged in the practice of public
17 accountancy in this state, or any resident manager of a
18 partnership in charge of an office in this state.

19 SEC. 11. Section 5074 of the Business and Professions
20 Code is repealed.

21 SEC. 12. Section 5075 of the Business and Professions
22 Code is repealed.

23 SEC. 13. Section 5076 of the Business and Professions
24 Code is repealed.

25 SEC. 14. Section 5081.1 of the Business and
26 Professions Code is amended to read:

27 5081.1. An applicant for admission to the examination
28 for a certified public accountant certificate shall comply
29 with one of the following:

30 (a) He or she shall present satisfactory evidence that
31 he or she has either of the following:

32 (1) A baccalaureate degree from a university, college,
33 or other four-year institution of learning accredited by a
34 regional or national accrediting agency or association
35 included in a list of these agencies or associations
36 published by the United States Commissioner of
37 Education under the requirements of Section 253 of the
38 Veterans’ Readjustment Assistance Act of 1952, known as
39 Public Law 550 of the 82nd Congress, as amended, with
40 a major in accounting or related subjects requiring a

1 minimum of 45 semester units of instruction in these
2 subjects. If the applicant has received a baccalaureate
3 degree in a nonaccounting major, the applicant shall
4 present satisfactory evidence of study substantially the
5 equivalent of accounting major, including courses in
6 related business administration.

7 (2) A degree or degrees from a college, university, or
8 other institution of learning located outside the United
9 States that is approved by the board as the equivalent of
10 the baccalaureate degree described in paragraph (1).
11 The board may require an applicant to submit
12 documentation of his or her education to a credentials
13 evaluation service for review and to report the results of
14 this review to the board.

15 (b) He or she shall present satisfactory evidence that
16 he or she has successfully completed a two-year course of
17 study at college grade or received an associate in arts
18 degree from a junior college, either institution accredited
19 by a regional or national accrediting agency or association
20 that is included in a list published by the United States
21 Commissioner of Education under the provisions of
22 federal law specified in paragraph (1) of subdivision (a),
23 and that he or she has studied accounting, commercial
24 law, economics, finance, and related business
25 administration subjects for a period of at least four years.

26 (c) The applicant shall show to the satisfaction of the
27 board that he or she has had the equivalent of the
28 educational qualifications required by subdivision (b), or
29 shall pass a preliminary written examination approved
30 and administered by an agency approved by the State
31 Department of Education and shall have completed a
32 minimum of 10 semester hours or the equivalent in
33 accounting subjects. The 10 semester hours in accounting
34 subjects shall be completed at a college, university, or
35 other institution of higher learning accredited at the
36 college level by an agency or association that is included
37 in a list published by the United States Commissioner of
38 Education under the provisions of federal law specified in
39 paragraph (1) of subdivision (a).

(d) He or she shall be a public accountant registered under this chapter.

SEC. 14.3. Section 5082.3 of the Business and Professions Code is repealed.

SEC. 14.4. Section 5082.3 is added to the Business and Professions Code, to read:

5082.3. An applicant for a license as a certified public accountant may be deemed by the board to have met the examination requirements of Section 5082 if the applicant satisfies all of the following requirements:

(a) The applicant is licensed or has comparable authority under the laws of any country to engage in the practice of public accountancy.

(b) The United States International Qualifications Appraisal Board has determined that the standards under which the applicant was licensed or under which the applicant secured comparable authority meets the standards for admission to the International Uniform Certified Public Accountant Qualification Examination.

(c) The applicant successfully passes the International Uniform Certified Public ~~accountant~~ *Accountant* Qualification Examination.

SEC. 15. Section 5084 of the Business and Professions Code is amended to read:

5084. The board shall grant one year's credit toward fulfillment of its public accounting experience requirement to a graduate of a college who has completed a four-year course with 45 or more semester units or the equivalent thereof in the study of accounting, commercial law, economics, and finance, of which at least 20 semester units or the equivalent thereof shall be in the study of accounting.

The members of the board shall prescribe rules establishing the character and variety of experience necessary to fulfill the experience requirements set forth in this section.

SEC. 16. Section 5153 of the Business and Professions Code is amended to read:

5153. An accountancy corporation may not render professional services under a name unless the name

1 complies with this chapter, including Article 3
2 (commencing with Section 5050) and Article 3.5
3 (commencing with Section 5060) and applicable
4 regulations adopted by the board, and has been approved
5 by the board as being neither false nor misleading.

6 SEC. 17. Section 11302 of the Business and Professions
7 Code is amended to read:

8 11302. For the purpose of applying this part, the
9 following terms, unless otherwise expressly indicated,
10 shall mean and have the following definitions:

11 (a) “Agency” means the Business, Transportation and
12 Housing Agency.

13 (b) “Appraisal” means a written statement
14 independently and impartially prepared by a qualified
15 appraiser setting forth an opinion in a federally related
16 transaction as to the market value of an adequately
17 described property as of a specific date, supported by the
18 presentation and analysis of relevant market information.

19 The term “appraisal” does not include an opinion given
20 by a real estate licensee or engineer or land surveyor in
21 the ordinary course of his or her business in connection
22 with a function for which a license is required under
23 Chapter 7 (commencing with Section 6700) or Chapter
24 15 (commencing with Section 8700) of Division 3, or
25 Chapter 3 (commencing with Section 10130) or Chapter
26 7 (commencing with Section 10500) and the opinion shall
27 not be referred to as an appraisal. This part does not apply
28 to a probate referee acting pursuant to Sections 400 to 408,
29 inclusive, of the Probate Code unless the appraised
30 transaction is federally related.

31 (c) “Appraisal Foundation” means the Appraisal
32 Foundation that was incorporated as an Illinois
33 not-for-profit corporation on November 30, 1987.

34 (d) “Appraisal Subcommittee” means the Appraisal
35 Subcommittee of the Federal Financial Institutions
36 Examination Council.

37 (e) “Director” means the Director of the Office of
38 Real Estate Appraisers.

39 (f) “Federal financial institutions regulatory agency”
40 means the Federal Reserve Board, Federal Deposit

1 Insurance Corporation, Office of the Comptroller of the
2 Currency, Office of Thrift Supervision, Federal Home
3 Loan Bank System, National Credit Union
4 Administration, the Resolution Trust Corporation, and
5 any other agency determined by the director to have
6 jurisdiction over transactions subject to this part.

7 (g) “Federally related real estate appraisal activity”
8 means the act or process of making or performing an
9 appraisal on real estate or real property in a federally
10 related transaction and preparing an appraisal as a result
11 of that activity.

12 (h) “Federally related transaction” means any real
13 estate-related financial transaction which a federal
14 financial institutions regulatory agency engages in,
15 contracts for or regulates and which requires the services
16 of a state licensed real estate appraiser regulated by this
17 part. This term also includes any transaction identified as
18 such by a federal financial institutions regulatory agency.

19 (i) “License” means any license, certificate, permit,
20 registration, or other means issued by the office
21 authorizing the person to whom it is issued to act
22 pursuant to this part within this state.

23 (j) “Licensure” means the procedures and
24 requirements a person shall comply with in order to
25 qualify for issuance of a license and includes the issuance
26 of the license.

27 (k) “Office” means the Office of Real Estate
28 Appraisers.

29 (l) “Secretary” means the Secretary of the Business,
30 Transportation and Housing Agency.

31 (m) “State licensed real estate appraiser” is a person
32 who is issued and holds a current valid license under this
33 part.

34 (n) “Uniform Standards of Professional Appraisal
35 Practice” are the standards of professional appraisal
36 practice established by the Appraisal Foundation.

37 (o) “Course provider” means a person or entity that
38 provides educational courses related to professional
39 appraisal practice.



1 SEC. 18. Section 11315 of the Business and Professions
2 Code is amended to read:

3 11315. (a) The director may issue to a licensee,
4 applicant for licensure, person who acts in a capacity that
5 requires a license under this part, course provider,
6 applicant for course provider accreditation, or a person
7 who, or entity that, acts in a capacity that requires course
8 provider accreditation a citation that may contain an
9 order to pay an administrative fine assessed by the office
10 if the person or entity is in violation of this part or any
11 regulations adopted to carry out its purposes.

12 (b) A citation shall be written and describe with
13 particularity the nature of the violation, including a
14 specific reference to the provision of law determined to
15 have been violated.

16 (c) If appropriate, the citation shall contain an order
17 of abatement fixing a reasonable time for abatement of
18 the violation.

19 (d) (1) If appropriate, the citation may contain an
20 order to enroll in and successfully complete additional
21 basic or continuing education courses.

22 (2) When a citation imposes an education course or
23 courses, the completion of the course or courses by the
24 licensee shall be subject to the following conditions:

25 (A) The citation imposing the education requirement
26 may specify the specific course content, the number of
27 hours to be completed, the date by which the course is to
28 be completed, and the method by which satisfaction of
29 the order is to be reported to the office.

30 (B) An education course imposed by citation may not
31 be credited towards the licensee's continuing education
32 requirements pursuant to Section 11360.

33 (C) Only courses accredited by the office shall be
34 accepted for purposes of fulfilling education imposed by
35 citation.

36 (D) Any failure to satisfactorily complete or timely
37 report an education course to the office by the date
38 specified in the citation shall result in the automatic
39 suspension of the licensee's appraisal license as of that
40 date.

1 (E) Reinstatement of a license suspended pursuant to
2 subparagraph (D) shall be made only if all of the
3 following events occur:

4 (i) Satisfactory verification of the completion of the
5 education course or courses imposed by the citation.

6 (ii) Completion and filing of a reinstatement
7 application.

8 (iii) Payment of all applicable fees, fines, or penalties.

9 (e) In no event shall an administrative fine assessed by
10 the office by citation or order exceed ten thousand dollars
11 (\$10,000) per violation. In assessing a fine, the office shall
12 give due consideration to the appropriateness of the
13 amount of the fine with respect to factors such as the
14 gravity of the violation, the good faith of the person who
15 committed the violation, and the history of previous
16 violations.

17 (f) A citation or fine assessment issued pursuant to a
18 citation shall inform the person cited that, if he or she
19 desires a hearing to contest the finding of a violation, he
20 or she must request a hearing by written notice to the
21 office within 30 days of the date of issuance of the citation
22 or assessment. Hearings shall be held pursuant to Chapter
23 5 (commencing with Section 11500) of Part 1 of Division
24 3 of Title 2 of the Government Code. The citation or fine
25 assessment shall also inform the person cited that failure
26 to respond to the citation or fine assessment shall result
27 in any order or administrative fine imposed becoming
28 final, and that any order or administrative fine shall
29 constitute an enforceable civil judgment in addition to
30 any other penalty or remedy available pursuant to law.

31 (g) (1) Failure of a licensee, applicant for licensure,
32 person who acts in a capacity that requires a license under
33 this part, course provider, applicant for course provider
34 accreditation, or a person who, or entity that, acts in a
35 capacity that requires course provider accreditation to
36 pay a fine or required installment payment on the fine
37 within 30 days of the date ordered in the citation, unless
38 the citation is being appealed, shall result in disciplinary
39 action by the office. If a licensee, applicant for licensure,
40 person who acts in a capacity that requires a license under

1 this part, course provider, applicant for course provider
2 accreditation, or a person who, or entity that, acts in a
3 capacity that requires course provider accreditation fails
4 to pay a fine or required installment payment on the fine
5 within 30 days, the director shall charge him or her
6 interest and a penalty of 10 percent of the fine or
7 installment payment amount. Interest shall be charged at
8 the pooled money investment rate.

9 (2) If a citation is not contested and a fine or fine
10 payment is not paid within 30 days of the date ordered in
11 the citation or other order of the director, the full amount
12 of the unpaid balance of the assessed fine shall be added
13 to any fee for renewal of a license. A license shall not be
14 renewed prior to payment of the renewal fee and fine.

15 (3) The director may order the full amount of any fine
16 to be immediately due and payable if any payment due
17 on a fine is not received by the office within 30 days of its
18 due date.

19 (4) Any fine, or interest thereon, not paid within 30
20 days of a final citation or order shall constitute a valid and
21 enforceable civil judgment.

22 (5) A certified copy of the final order, or the citation
23 with certification by the office that no request for hearing
24 was received within 30 days of the date of issuance of the
25 citation, shall be conclusive proof of the civil judgment,
26 its terms, and its validity.

27 (h) A citation may be issued without the assessment of
28 an administrative fine.

29 (i) Any administrative fine or penalty imposed
30 pursuant to this section shall be in addition to any other
31 criminal or civil penalty provided for by law.

32 (j) Administrative fines collected pursuant to this
33 section shall be deposited in the Real Estate Appraisers
34 Regulation Fund.

35 SEC. 19. Section 11316 is added to the Business and
36 Professions Code, to read:

37 11316. (a) The director may assess a fine against a
38 licensee, applicant for licensure, person who acts in a
39 capacity that requires a license under this part, course
40 provider, applicant for course provider accreditation, or

1 a person who, or entity that, acts in a capacity that
2 requires course provider accreditation for violation of this
3 part or any regulations adopted to carry out its purposes.

4 (b) (1) Failure of a licensee, applicant for licensure,
5 person who acts in a capacity that requires a license under
6 this part, course provider, applicant for course provider
7 accreditation, or a person who, or entity that, acts in a
8 capacity that requires course provider accreditation to
9 pay a fine or make a fine payment within 30 days of the
10 date of assessment shall result in disciplinary action by the
11 office. If a licensee, applicant for licensure, person who
12 acts in a capacity that requires a license under this part,
13 course provider, applicant for course provider
14 accreditation, or a person who, or entity that, acts in a
15 capacity that requires course provider accreditation fails
16 to pay a fine within 30 days, the director shall charge him
17 or her interest and a penalty of 10 percent of the fine or
18 payment amount. Interest shall be charged at the pooled
19 money investment rate.

20 (2) If a fine is not paid, the full amount of the assessed
21 fine shall be added to any fee for renewal of a license. A
22 license shall not be renewed prior to payment of the
23 renewal fee and fine.

24 (3) The director may order the full amount of any fine
25 to be immediately due and payable if any payment on the
26 fine, or portion thereof, is not received within 30 days of
27 its due date.

28 (4) Any fine, or interest thereon, not paid within 30
29 days of a final order shall constitute a valid and
30 enforceable civil judgment.

31 (5) A certified copy of the final order shall be
32 conclusive proof of the validity of the order of payment
33 and the terms of payment.

34 (c) Any administrative fine or penalty imposed
35 pursuant to this section shall be in addition to any other
36 criminal or civil penalty provided for by law.

37 (d) Administrative fines collected pursuant to this
38 section shall be deposited in the Real Estate Appraisers
39 Regulation Fund.

1 SEC. 20. Section 11317 is added to the Business and
2 Professions Code, to read:

3 11317. The office shall publish a summary of public
4 disciplinary actions taken by the office, including
5 resignations while under investigation and the violations
6 upon which these actions are based, which shall meet, at
7 a minimum, the requirements of the appraisal
8 subcommittee. The office shall not publish identifying
9 information with respect to private reprovls or letters of
10 warning, which shall remain confidential.

11 SEC. 21. Section 11318 is added to the Business and
12 Professions Code, to read:

13 11318. (a) A licensee, applicant for licensure, course
14 provider, or applicant for course provider accreditation
15 shall report to the office, in writing, the occurrence of any
16 of the following events within 30 days of the date he or she
17 has knowledge of any of these events:

18 (1) The conviction of the licensee, applicant for
19 licensure, course provider, or applicant for course
20 provider accreditation of any of the following:

21 (A) A felony.

22 (B) Any crime related to the qualifications, functions,
23 or duties of a licensee, or to acts or activities committed
24 in the course of the licensee's or course provider's
25 practice.

26 As used in this section, a conviction includes an initial
27 plea, verdict, or finding of guilty, plea of no contest, or
28 pronouncement of sentence by a trial court even though
29 that conviction may not be final, the sentence may not be
30 imposed, or all appeals may not be exhausted.

31 (2) The cancellation, revocation, or suspension of a
32 license, other authority to practice, or refusal to renew a
33 license or other authority to practice as an occupational
34 or professional licensee or course provider, by any other
35 regulatory entity.

36 (3) The cancellation, revocation, or suspension of the
37 right to practice before any governmental body or
38 agency.

39 (b) The report required by subdivision (a) shall be
40 signed by the licensee, applicant for licensure, course

1 provider, or applicant for course provider accreditation
2 and clearly set forth the facts that constitute the
3 reportable event. The report shall include the title of the
4 matter, court or agency name, docket number, and dates
5 of occurrence of the reportable event.

6 (c) The licensee, applicant for licensure, course
7 provider, or applicant for course provider accreditation
8 shall also promptly obtain and submit a certified copy of
9 the police or administrative agency's investigative report
10 and certified copies of the court or administrative
11 agency's docket, complaint or accusation, and judgment
12 or other order.

13 (d) A licensee, applicant for licensure, course
14 provider, or applicant for course provider accreditation
15 shall promptly respond to oral or written inquiries from
16 the office concerning the reportable events.

17 SEC. 22. Section 11360 of the Business and Professions
18 Code is amended to read:

19 11360. (a) The director shall adopt regulations
20 governing the process and procedures for renewal of a
21 license which shall include, but not be limited to,
22 continuing education requirements.

23 (b) An applicant for renewal of a license shall be
24 required to demonstrate his or her continuing fitness to
25 hold a license prior to its renewal.

26 SEC. 23. Section 11409 is added to the Business and
27 Professions Code, to read:

28 11409. (a) Except as otherwise provided by law, any
29 order issued in resolution of a disciplinary proceeding
30 may direct a licensee, applicant for licensure, person who
31 acts in a capacity that requires a license under this part,
32 course provider, applicant for course provider
33 accreditation, or a person who, or entity that, acts in a
34 capacity that requires course provider accreditation
35 found to have committed a violation or violations of
36 statutes or regulations relating to real estate appraiser
37 practice to pay a sum not to exceed the reasonable costs
38 of investigation, enforcement, and prosecution of the
39 case.



(b) Where an order for recovery of costs is made and payment is not made within 30 days of the date directed in the office's decision, the order for recovery shall constitute a valid and enforceable civil judgment. This judgment shall be in addition to, and not in place of, any other criminal or civil penalties provided for by law.

(c) (1) Failure of a licensee, applicant for licensure, person who acts in a capacity that requires a license under this part, course provider, applicant for course provider accreditation, or a person who, or entity that, acts in a capacity that requires course provider accreditation to pay recovery costs or make a recovery cost payment within 30 days of the date ordered, shall result in disciplinary action by the office. If the person fails to pay recovery costs within 30 days, that person shall pay interest and a penalty of 10 percent of the recovery costs or payment amount. Interest shall be charged at the pooled money investment rate.

(2) If recovery costs are not paid as ordered, the full amount of the assessed fine shall be added to any fee for renewal of a license. A license shall not be renewed prior to payment of the renewal fee and recovery costs.

(3) The director may order the full amount of any recovery costs to be immediately due and payable if any payment on the recovery costs, or portion thereof, is not received within 30 days of its due date.

(4) Any recovery costs, or interest thereon, not paid within 30 days of a final order shall constitute a valid and enforceable civil judgment.

(d) A certified copy of the office's decision shall be conclusive proof of the validity of the order and its terms.

(e) The office shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(f) Nothing in this section shall preclude the office from including the recovery of the costs of investigation and enforcement of a case in any default decision or stipulated settlement.

SEC. 24. Section 11410 of the Business and Professions Code is amended to read:

1 11410. The Real Estate Appraisers Regulation Fund is
2 hereby created in the State Treasury to consist of moneys
3 raised by fees and assessments imposed pursuant to this
4 part. Interest shall be paid at the pooled money
5 investment rate on all money transferred to the General
6 Fund from the Real Estate Appraisers Regulation Fund,
7 notwithstanding the provisions of Section 16310 of the
8 Government Code.

9 SEC. 25. Section 17550.43 of the Business and
10 Professions Code is amended to read:

11 17550.43. (a) The Travel Consumer Restitution
12 Corporation shall establish an operations fund for the
13 payment of costs of operations and administration. The
14 corporation shall prepare, prior to its fiscal yearend, an
15 estimated annual operational budget projecting the costs
16 of operations and administration for the succeeding fiscal
17 year, excluding the amount paid for claims.

18 (b) All participants registering or applying for
19 registration shall pay to the Travel Consumer Restitution
20 Corporation an initial, one-time thirty-five dollar (\$35)
21 assessment per location from which the participant does
22 business in the state in order to provide additional
23 funding for the operations of the corporation, as those
24 operations are authorized by the corporation's board of
25 directors.

26 (c) (1) All participants registering for the first time
27 on or after January 1, 1996, shall pay the Travel Consumer
28 Restitution Corporation the same initial two hundred
29 dollars (\$200) per location assessments for the operations
30 of the corporation and restitution fund as were paid by
31 participants registering in 1995.

32 (2) After January 1, 1996, all participants who were
33 sellers of travel in any year, and who were not registered
34 in that year, when registering for the first time in a
35 subsequent year must pay the Travel Consumer
36 Restitution Corporation all assessments for the years in
37 which they were in business as were paid by participants
38 registering in those years.

(d) The Travel Consumer Restitution Corporation shall establish a restitution fund for the payment of claims. All claims shall be paid from the restitution fund.

(1) The restitution fund shall be in the form of a trust account maintained in the State of California with a federally insured bank that shall be selected by the Board of Directors of the Travel Consumer Restitution Corporation and shall be approved by the office of the Attorney General. The Board of Directors of the Travel Consumer Restitution Corporation or its delegate shall serve as trustee.

(2) The restitution fund shall meet the following criteria:

(A) The trustee shall deposit all restitution funds received directly into the trust account.

(B) The trustee shall maintain a separate accounting for disbursements and collections on account of claims against each participant. Quarterly reports shall be provided to the office of the Attorney General, Consumer Law Section.

(C) The trustee shall disburse funds from the trust as directed by the Travel Consumer Restitution Corporation pursuant to Section 17550.47, directly to a person aggrieved or as provided in Section 17550.47.

(D) The trustee may only invest the operations fund and trust funds in any of the securities described in subdivision (a) or (b) of Section 16430 of the Government Code.

SEC. 26. Section 17550.44 of the Business and Professions Code is amended to read:

17550.44. (a) In addition to the assessments required by Section 17550.43, the Travel Consumer Restitution Corporation shall bill and collect from each participant an annual assessment that in the aggregate shall consist of assessments for the operations fund and the restitution fund. For each participant, the due date of that annual assessment shall be 30 days prior to the initial and annual renewal date for registration pursuant to Section 17550.20. A late fee of five dollars (\$5) per day, up to a maximum of five hundred dollars (\$500), shall be paid for

1 each day after the due date specified in this section until
2 the assessment is received by the Travel Consumer
3 Restitution Corporation.

4 (b) The annual assessment for the operations fund
5 shall be determined no later than January 15 of each year
6 for the next fiscal year. The annual assessment for the
7 operations fund shall not exceed thirty-five dollars (\$35)
8 per year for each location in the state from which a
9 participant does business.

10 (c) If, as of January 15, 1997, or as of January 15 of any
11 subsequent year, the balance in the restitution fund is less
12 than one million two hundred thousand dollars
13 (\$1,200,000), the Travel Consumer Restitution
14 Corporation shall make an annual assessment of
15 participants, up to a maximum amount of two hundred
16 dollars (\$200) for each location in the state from which a
17 participant does business, to bring the restitution fund to
18 an expected balance of one million two hundred
19 thousand dollars (\$1,200,000). Every participant's
20 assessment shall be determined pro rata based upon the
21 ratio of the number of locations in the state from which
22 the participant does business to the total number of
23 locations for all registered participants as of the preceding
24 December 15.

25 (d) If, on May 1 or October 15 of any year,
26 commencing on January 1, 1997, the balance in the
27 restitution fund is less than nine hundred thousand dollars
28 (\$900,000), the corporation shall make an emergency
29 assessment of participants, not more than twice per year,
30 up to a maximum amount of two hundred dollars (\$200)
31 per year for each location in the state from which the
32 participant does business, for deposit in the trust account
33 to return the level of the restitution fund to an expected
34 balance of one million two hundred thousand dollars
35 (\$1,200,000). The board of directors shall adopt rules for
36 the notification of emergency assessments.

37 (e) The Travel Consumer Restitution Fund shall
38 report to the office of the Attorney General each levy of
39 assessment within 10 business days after the levy.



1 SEC. 27. Section 17550.47 of the Business and
2 Professions Code is amended to read:

3 17550.47. (a) (1) Any person aggrieved who suffers
4 a loss may file a claim with the Travel Consumer
5 Restitution Corporation. Except as provided in
6 paragraph (2), the claim must be filed within 60 days of
7 the date upon which the person aggrieved becomes
8 aware, or should have become aware, of the loss.

9 (2) Any person aggrieved who did not receive the
10 notice required by subdivision (h) of Section 17550.13
11 shall have until 60 days after receiving a notice setting
12 forth the information required by subdivision (h) of
13 Section 17550.13, or 60 days after the date upon which the
14 person aggrieved becomes aware, or should have become
15 aware, of the loss, whichever is later, within which to file
16 a claim.

17 (3) In no event shall a person aggrieved have more
18 than one year after the scheduled date of completion of
19 travel within which to file a claim with the Travel
20 Consumer Restitution Fund.

21 (b) A person aggrieved may recover from the Travel
22 Consumer Restitution Fund an amount of no more than
23 fifteen thousand dollars (\$15,000) per person aggrieved
24 not to exceed the amount paid to the participant for
25 transportation or travel services. The person aggrieved
26 shall not be entitled to receive attorney's fees in
27 connection with a filed claim, except as provided in this
28 section, on appeal.

29 (c) All claims are to be decided on the written record
30 before the corporation, with no hearing to be held. The
31 record shall consist of a fully executed and complete
32 claim, any other documentation submitted by the
33 claimant, and any documents or reports submitted by
34 staff or the designated representative of the office of the
35 Attorney General. Claims are to be decided within 45
36 days of receipt unless the designated representative of
37 the office of the Attorney General requests a continuance
38 to obtain and submit information. A claim not decided
39 timely shall be deemed granted.

1 (d) Whenever the Travel Consumer Restitution
2 Corporation denies a claim in whole or in part, it shall
3 provide to the claimant a written statement of decision
4 setting forth the factual and legal basis for the denial.

5 (e) A claimant or seller of travel may request
6 reconsideration of an adverse decision of the Travel
7 Consumer Restitution Corporation by mailing a written
8 request within 20 days of the date a notice of denial and
9 statement of decision was mailed to the claimant.

10 (f) The Travel Consumer Restitution Corporation
11 shall decide the request for reconsideration within 30
12 days of receipt of the request, and if the decision is a
13 denial in whole or in part, it shall provide to the claimant
14 and seller of travel a written statement of decision setting
15 forth the factual and legal basis for the decision. No appeal
16 may be taken pursuant to subdivision (g) until
17 reconsideration has been requested and decided. The
18 claimant or seller of travel shall not be entitled to any
19 attorney's fees incurred in connection with presentation
20 of a claim or request for reconsideration.

21 (g) A claimant or seller of travel may only seek review
22 of the denial of a claim by filing a notice of appeal after
23 having served the notice by mail on the Travel Consumer
24 Restitution Corporation. The notice of appeal shall be
25 filed and served on the Travel Consumer Restitution
26 Corporation not later than 30 days after a written
27 statement of decision on a request for reconsideration has
28 been mailed to the claimant or seller of travel. The notice
29 of appeal from a decision of the Travel Consumer
30 Restitution Corporation shall be filed with the clerk of the
31 superior court either in the county in which the principal
32 place of business of the Travel Consumer Restitution
33 Corporation is located, or in the county in which the
34 claimant ~~or seller of travel~~ was a resident at the time the
35 claimant purchased the transportation or travel services
36 in dispute.

37 (h) The claimant or seller of travel shall pay the same
38 filing fee as is required for appeals from small claims
39 court. The Travel Consumer Restitution Corporation
40 shall file with the clerk of the superior court the record

1 before the corporation within 30 days of the day the
2 notice of appeal was served on the Travel Consumer
3 Restitution Corporation.

4 (i) Upon the filing of the record the clerk of the court
5 shall schedule a hearing for the earliest available time and
6 shall mail written notice of the hearing at least 14 days
7 prior to the time set for the hearing.

8 (j) The hearing on appeal shall be limited to the record
9 before the Travel Consumer Restitution Corporation and
10 any relevant evidence that could not have been with
11 reasonable diligence submitted previously to the
12 corporation. The reviewing court shall apply a
13 preponderance of the evidence standard of review. The
14 pretrial discovery procedures described in subdivision
15 (a) of Section 2019 of the Code of Civil Procedure are not
16 permitted, there is no right to trial by jury, no tentative
17 decision or statement of decision is required, and the
18 decision of the superior court after a hearing on appeal is
19 final and not appealable. No money may be claimed from
20 or paid by the Travel Consumer Restitution Fund except
21 in accordance with the provisions and procedures set
22 forth in this article. No provision herein shall limit or
23 otherwise affect those remedies as may be available
24 against persons or entities other than the Travel
25 Consumer Restitution Fund.

26 ~~(k) If the claimant or seller of travel prevails in whole~~
27 ~~or in part in an appeal, the prevailing claimant or seller~~
28 ~~of travel shall be entitled to attorney's fees and costs~~
29 ~~actually and reasonably incurred in connection with the~~
30 ~~appeal, those fees and costs not to exceed the amount~~
31 ~~awarded by the reviewing court.~~

32 *(k) If the claimant prevails in whole or in part on an*
33 *appeal, the claimant shall be entitled to an award against*
34 *the seller of travel of attorney's fees and costs actually and*
35 *reasonably incurred in connection with the appeal. The*
36 *amount of any award of attorney's fees and costs to be*
37 *paid by the seller of travel shall be determined by the*
38 *reviewing court.*

39 (l) Any claim awarded by the corporation shall be paid
40 promptly by the trustee of the restitution fund when the

1 time for appeal has passed or the right to an appeal is
2 waived in writing by the claimant. Any judgment on
3 appeal shall be paid promptly by the trustee of the
4 restitution fund. If there should be insufficient funds to
5 pay a claim when otherwise due, claims shall be paid in
6 the order received. If the Travel Consumer Restitution
7 Corporation ceases to operate pursuant to the terms of
8 Section 17550.52, any remaining trust funds shall be
9 allocated on a pro rata basis to claims accruing prior to the
10 corporation ceasing to operate.

11 (m) A claim shall require a majority of at least three
12 affirmative votes for denial, otherwise it shall be deemed
13 granted.

14 SEC. 28. Section 17550.49 of the Business and
15 Professions Code is amended to read:

16 17550.49. If the Travel Consumer Restitution
17 Corporation directs that payment be made from the
18 restitution fund in any amount in response to a claim
19 against a participant, the corporation shall inform the
20 ~~office of the Attorney General, which shall revoke the~~
21 ~~registration of the participant, upon the date the notice~~
22 ~~is received that payment has been directed to be made~~
23 ~~from the fund. The seller of travel, including the sole~~
24 ~~proprietor if the entity is a sole proprietorship, the~~
25 ~~general partners if the entity is a partnership, or the~~
26 ~~officers, directors, and stockholders holding more than 10~~
27 ~~percent of the stock if the entity is a corporation, shall not~~
28 ~~be eligible to reregister to do business as a seller of travel~~
29 ~~until the fund is repaid in full, plus interest at the rate of~~
30 ~~9 percent per year, the amount paid from the fund on the~~
31 ~~account of the seller of travel, together with all expenses~~
32 ~~and costs incurred by the Travel Consumer Restitution~~
33 ~~Corporation in connection with the claim.~~ *office of the*
34 *Attorney General and shall maintain a record of all claims*
35 *paid from the fund. A list of those sellers of travel on*
36 *whose account payment has been made from the fund*
37 *shall be provided upon written request. The corporation*
38 *shall have the authority and discretion to determine*
39 *whether or not to seek recovery from a seller of travel of*
40 *any amounts paid from the fund. The corporation may*

1 *seek that recovery by any lawful means, including, but*
2 *not limited to, debt collection or civil litigation. If the*
3 *corporation seeks recovery, it shall be entitled to collect*
4 *from any seller of travel against which action is taken all*
5 *reasonable expenses incurred in taking the action,*
6 *including attorney's fees. The corporation shall also be*
7 *entitled to interest at the rate of 9 percent per year on the*
8 *amount paid from the fund, together with all expenses*
9 *and costs incurred by the corporation in connection with*
10 *the claim.*

11 SEC. 29. *Section 22958 of the Business and Professions*
12 *Code, as amended by Chapter 220 of the Statutes of 1997,*
13 *is amended to read:*

14 22958. (a) The state department may assess civil
15 penalties against any person, firm, or corporation that
16 sells, gives, or in any way furnishes to another person who
17 is under the age of 18 years, any tobacco, cigarette, or
18 cigarette papers, or any other instrument or
19 paraphernalia that is designed for the smoking or
20 ingestion of tobacco, products prepared from tobacco, or
21 any controlled substance, according to the following
22 schedule: (1) a civil penalty of from two hundred dollars
23 (\$200) to three hundred dollars (\$300) for the first
24 violation, (2) a civil penalty of from six hundred dollars
25 (\$600) to nine hundred dollars (\$900) for the second
26 violation within a five-year period, (3) a civil penalty of
27 from one thousand two hundred dollars (\$1,200) to one
28 thousand eight hundred dollars (\$1,800) for a third
29 violation within a five-year period, (4) a civil penalty of
30 from three thousand dollars (\$3,000) to four thousand
31 dollars (\$4,000) for a fourth violation within a five-year
32 period, or (5) a civil penalty of from five thousand dollars
33 (\$5,000) to six thousand dollars (\$6,000) for a fifth or
34 subsequent violation within a five-year period.

35 (b) The state department shall assess penalties in
36 accordance with the schedule set forth in subdivision (a)
37 against any person, firm, or corporation that sells, offers
38 for sale, or distributes tobacco products from a cigarette
39 or tobacco products vending machine, or any person,

1 firm, or corporation that leases, furnishes, or services
2 these machines in violation of Section 22960.

3 (c) *The state department shall assess penalties in*
4 *accordance with the schedule set forth in subdivision (a)*
5 *against any person, firm, or corporation that advertises or*
6 *causes to be advertised any tobacco product on any*
7 *outdoor billboard in violation of Section 22961.*

8 (d) If a civil penalty has been assessed pursuant to this
9 section against any person, firm, or corporation for a
10 single, specific violation of this division, the person, firm,
11 or corporation shall not be prosecuted under Section 308
12 of the Penal Code for a violation based on the same facts
13 or specific incident for which the civil penalty was
14 assessed. If any person, firm, or corporation has been
15 prosecuted for a single, specific violation of Section 308 of
16 the Penal Code, the person, firm, or corporation shall not
17 be assessed a civil penalty under this section based on the
18 same facts or specific incident upon which the
19 prosecution under Section 308 of the Penal Code was
20 based.

21 ~~(d)~~

22 (e) (1) In the case of a corporation or business with
23 more than one retail location, to determine the number
24 of accumulated violations for purposes of the penalty
25 schedule set forth in subdivision (a), violations of this
26 division by one retail location shall not be accumulated
27 against other retail locations of that same corporation or
28 business.

29 (2) In the case of a retail location that operates
30 pursuant to a franchise as defined in Section 20001,
31 violations of this division accumulated and assessed
32 against a prior owner of a single franchise location shall
33 not be accumulated against a new owner of the same
34 single franchise location for purposes of the penalty
35 schedule set forth in subdivision (a).

36 ~~(e)~~

37 (f) Proceedings under this section shall be conducted
38 in accordance with Section 100171 of the Health and
39 Safety Code.

SEC. 30. Section 719 of the Harbors and Navigation Code is amended to read:

719. (a) A person shall be deemed qualified to submit an application for a broker's license if, as shown on the department's records, the person has been employed, within five years preceding his or her application, as a licensed salesperson for at least one year, has been licensed as a broker within five years preceding his or her application, has owned and operated a marine business selling new or used yachts for a minimum of three continuous years immediately preceding application for a broker's license, or has been employed as a broker or a yacht salesperson in another state when that employment was a primary occupation for a minimum of three continuous years immediately preceding application for a broker's license in California. Proof of employment as a broker in another state *or as a marine business selling new or used yachts in California* shall be in the form of all of the following:

(1) State, if applicable, and federal income tax returns, or a proof of earning statement made by the applicant under penalty of perjury, for the three-year period preceding application in California.

(2) If bonded, a statement issued by the applicant's bonding company that no action has been taken against the bond for fraud or gross misrepresentation for the period for which the bond has been issued.

(3) A copy of all business permits, issued by any state, county, or city agency, which, if applicable, includes the fictitious business name ("dba" or "doing business as") under which the applicant conducted a yacht or ship brokerage business *or a marine business selling new or used yachts in California* for the ~~three-year~~ three-year period preceding application for a California broker's license.

(4) If the applicant conducts a yacht or ship brokerage business in another state that requires broker or salesperson licensing, evidence of a current license in that state.

1 (b) If the applicant is a partnership, then one of the
2 partners of the applicant shall have the foregoing
3 qualifications.

4 (c) If the applicant is a corporation, then the officer or
5 officers of the corporation to be designated for a license
6 as provided in this article shall have the foregoing
7 qualifications.

8 (d) If the applicant is an individual, the applicant shall
9 be at least 18 years of age.

10 SEC. 30. No reimbursement is required by this act
11 pursuant to Section 6 of Article XIII B of the California
12 Constitution because the only costs that may be incurred
13 by a local agency or school district will be incurred
14 because this act creates a new crime or infraction,
15 eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section
17 17556 of the Government Code, or changes the definition
18 of a crime within the meaning of Section 6 of Article
19 XIII B of the California Constitution.

20 Notwithstanding Section 17580 of the Government
21 Code, unless otherwise specified, the provisions of this act
22 shall become operative on the same date that the act
23 takes effect pursuant to the California Constitution.

